

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION**

**5:06cv70**

**PAULA TOWNSEND,**

**Plaintiff,**

**Vs.**

**MARK WILLIAM SHOOK, individually  
and in his official capacity as Sheriff of  
Watauga County; WATAUGA COUNTY;  
and JOHN DOE SURETY,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the court on the Joint Motion for an Order Directing Fowler Cooper, MA, LMFT, PA to Produce Records Pertaining to the Plaintiff to Plaintiff's Counsel and to Appear to be Deposed by Defendants' Counsel (#33). Counsel for the respective parties have shown to this satisfaction of this court that Mr. Cooper has in his possession records that are relevant and subject to production in this matter, but that Mr. Cooper has failed to either appear or produce such records despite issuance of subpoenas by this court. Based on the representations of counsel in this matter and the court docket, the court finds probable cause to believe that Mr. Cooper is in contempt of this court.

An Order will, therefore, issue compelling Mr. Cooper to appear before this court on Monday May 21, 2007, at 9:30 a.m. to show cause why he should not be held in contempt.

(1) Mr. Cooper is advised that if he fails to heed this Order, a warrant will

issue for his arrest.

- (2) Mr. Cooper is Ordered to bring with him to the Show Cause Hearing the documents which have been subpoenaed as well as his checkbook inasmuch as the court anticipates, at a minimum, taxing the costs and fees his alleged disobedience of the court's subpoena have caused.
- (3) Mr. Cooper is advised that under North Carolina law, he has no privilege in the plaintiff's medical records inasmuch as the privilege belongs only to the patient and the patient has properly waived and released such information as a matter of law.
- (4) Finally, Mr. Cooper is advised that he may wish to appear at the hearing with an attorney licensed to practice in the Western District of North Carolina inasmuch as substantial interests are stake, which may include financial as well as liberty interests if the court finds contempt.

\* \* \*

Counsel for the respective parties and the Plaintiff shall also appear at such hearing and produce bills of costs and fees as to this matter, supported by the affidavit of another unaffiliated attorney as to reasonableness.

## **ORDER**

**IT IS, THEREFORE, ORDERED** that

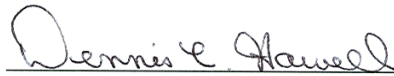
- (1) the Joint Motion for an Order Directing Fowler Cooper, MA, LMFT, PA to Produce Records Pertaining to the Plaintiff to Plaintiff's Counsel and to Appear to be Deposed by Defendants' Counsel (#33) is **ALLOWED**;
- (2) Mr. Fowler Cooper, MA, LMFT, PA, is **COMPELLED** to appear before this court on Monday, May 21, 2007, at 9:30 a.m. in Courtroom No. 2, the United States Courthouse, 100 Otis St., Asheville, N.C., and there **SHOW CAUSE** why he should not be held in contempt of this court for failing to comply with this court's subpoena; and
- (3) Mr. Fowler Cooper, MA, LMFT, PA, is further **COMPELLED** to produce at such hearing the documents earlier requested by the parties and commanded by this court's subpoena.

The United States Marshal is, hereby, directed to personally serve Mr. Cooper with a copy of this Order as well as a copy of the Joint Motion (#33), at the following address:

**895 State Farm Road  
Boone, North Carolina 28607**

or such other address at which Mr. Cooper may be found. After completion of service, the United States Marshall shall submit with its return a bill for its costs of service.

Signed: May 14, 2007



Dennis L. Howell  
United States Magistrate Judge

